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10/660,957	09/12/2003	James M. Hayes	2265	6320
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			ART UNIT	PAPER NUMBER
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SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)
	10/660,957	HAYES ET AL.
	Examiner Ellen C. Tran	Art Unit 2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 12 September 2003.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-21 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-21 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.



Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date 10/06/2003

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application
 6) Other: _____.

DETAILED ACTION

1. This action is responsive to: an original application filed on 12 September 2003.
2. Claims 1-21 are pending; claims 1, 8, 14, 18, and 21 are independent claims.
3. The IDS submitted 12 September 2003, 18 June 2004, 28 March 2005, and 17 April 2006 has been considered.

Claim Objections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 14-21 are objected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The independent claims and dependent claims 15 and 17, contain the phrase "MIN/ESN" the slash "/" between the abbreviations MIN and ESN renders the claim indefinite. Normally a slash between words indicates "and or", the words "and or" is an indefinite limitation because it does not define the metes and bounds of the claims. See dependent claims 14, 15, 17, 18, and 21 on claim pages 28-30. Appropriate correction is required.

6. To expedite a complete examination of the instant application the claims rejected under 35 U.S.C. 101 (nonstatutory) as well as 35 U.S.C. 112 above are further rejected as set forth below in anticipation of applicant amending these claims to place them within the four statutory categories of invention.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 1-3, 8, 13, 14, 17, 18, and 21**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmid U.S. Patent No. 5,887,249 (hereinafter '249) in view of Chatterjee et al. US Patent No. 6,915,132 (hereinafter '132).

As to independent claim 1, “A method comprising: granting radio network access to a first wireless device operating under a given mobile identification number (MIN) and a given electronic serial number (ESN) and then engaging in a first over-the-air activation process to establish a first subscriber account for the first wireless device and to program the first wireless device with a first new MIN” is taught in '249 col. 3, lines 5-19; “**and then engaging in a second over-the-air phone activation process to establish a second subscriber account for the second wireless device and to program the second wireless device with a second new MIN different than the first new MIN**” is shown in '249 col. 4, lines 61 through col. 5, line 36, note the each radio telephone contains a programmable memory which contain a unique identification number assigned by the cellular system; therefore it is interpreted that there is a second over-the-air phone activation process; the following is not explicitly taught in '249: “**and: granting radio network access to a second wireless device operating under the same given MIN and the same given ESN**” however

‘132 teaches that the over-the air activation function ID number is the same for every mobile station in col. 3, lines 5-11.

It would have been obvious to one of ordinary skill in the art at the time of a method for remotely establishing a cellular service account for a cellular radiotelephone system taught in ‘249 to include a means to utilize the same ID number for activation. One of ordinary skill in the art would have been motivated to perform such a modification to simplify the activation process of mobile phones see ‘132 (col. 1, lines 58 et seq.) “For example, normally, a mobile wireless telephone set may not initiate or complete radio telephone calls until it is registered with and authorized for service by a service provider. Mobile wireless telephone service providers require that any new customer take the mobile wireless telephone set to an authorized service center for programming so that the telephone set becomes authorized for service in the network.

Information must be entered and stored into the mobile wireless telephone set which is specific to the mobile subscriber and specific to the desired service for the set. In cellular mobile telephone communication services, for example, such information is referred to as number assignment module (NAM) designation parameters. Examples of NAM parameters that the cellular telephone service provider now manually enters into the cellular telephone set include system identification, telephone number, access overhead class, group identification, initial paging channel, security lock code, local use flag, A/B system selection, and MIN mark flag. The cellular telephone customer must present the new cellular telephone set to the service provider or a representative so that the NAM module, which constitutes approximately 30 bytes of information, can be manually entered into the cellular telephone set. There are millions of new customers each year for cellular mobile telephone communication services. Hundreds of

employees of the service provider or representative, located over a wide geographic area, are responsible for manually entering the NAM module into unprogrammed cellular telephone sets for the new customers. This necessitates the use of a centralized data base to assist the service provider in coordinating the activation process. The service provider's employee typically uses a workstation computer to enter the customer's application data. The workstation is remotely connected to the central data base and sends the new customer's application data to the data base for processing. The centralized data base may perform a credit check on the new customer, may keep track of available services, telephone numbers, network access data, and other information, and then assigns the MIN to the new customer's cellular telephone set. The MIN and other NAM parameters are transmitted by the centralized data base back to the service provider's workstation for manual entry by the employee into the cellular telephone set. This presents a cumbersome and costly procedure both to the customer as well as to the service provider".

As to dependent claim 2, "further comprising: granting radio network access to the first wireless device operating under the first new MIN; and granting radio network access to the second wireless device operating under the second new MIN" is taught in '249 col. 5, lines 1-8.

As to dependent claim 3, "further comprising setting a network authentication entity to allow multiple wireless devices to operate concurrently under the given MIN and the given ESN" however '132 teaches the over-the air activation function ID number is the same for every mobile station in col. 3, lines 5-11.

As to independent claim 8, "A method comprising: distributing a plurality of wireless devices to users, wherein each wireless device of the plurality of wireless devices

includes stored pre-activation provisioning data and stored post activation provisioning data, wherein the stored pre-activation provisioning data on all of the wireless devices includes” is taught in ‘249 col. 3, lines 5-19;

“**(ii) unique authentication data that is different per wireless device**” is shown in ‘249 col. 4, lines 61 through col. 5, line 36, note the each radio telephone contains a programmable memory which contain a unique identification number assigned by the cellular system; therefore it is interpreted that there is a second over-the-air phone activation process; the following is not explicitly taught in ‘249: “**(i) common authentication data that is the same on all of the wireless devices and receiving into a network from a first of the wireless devices a first registration request that carries the common authentication data, and granting radio frequency (RF) connectivity to the first wireless device in response to at least the common authentication data carried in the first registration request; and receiving into the network from a second of the wireless devices a second registration request that carries the common authentication data, and granting RF connectivity to the second wireless device in response to at least the common authentication data carried in the second registration request**” however ‘132 teaches that the over-the air activation function ID number is the same for every mobile station in col. 3, lines 5-11.

It would have been obvious to one of ordinary skill in the art at the time of a method for remotely establishing a cellular service account for a cellular radiotelephone system taught in ‘249 to include a means to utilize the same ID number for activation. One of ordinary skill in the art would have been motivated to perform such a modification to simplify the activation process of mobile phones see ‘132 (col. 1, lines 58 et seq.) “For example, normally, a mobile wireless

telephone set may not initiate or complete radio telephone calls until it is registered with and authorized for service by a service provider. Mobile wireless telephone service providers require that any new customer take the mobile wireless telephone set to an authorized service center for programming so that the telephone set becomes authorized for service in the network.

Information must be entered and stored into the mobile wireless telephone set which is specific to the mobile subscriber and specific to the desired service for the set. In cellular mobile telephone communication services, for example, such information is referred to as number assignment module (NAM) designation parameters. Examples of NAM parameters that the cellular telephone service provider now manually enters into the cellular telephone set include system identification, telephone number, access overhead class, group identification, initial paging channel, security lock code, local use flag, A/B system selection, and MIN mark flag. The cellular telephone customer must present the new cellular telephone set to the service provider or a representative so that the NAM module, which constitutes approximately 30 bytes of information, can be manually entered into the cellular telephone set. There are millions of new customers each year for cellular mobile telephone communication services. Hundreds of employees of the service provider or representative, located over a wide geographic area, are responsible for manually entering the NAM module into unprogrammed cellular telephone sets for the new customers. This necessitates the use of a centralized data base to assist the service provider in coordinating the activation process. The service provider's employee typically uses a workstation computer to enter the customer's application data. The workstation is remotely connected to the central data base and sends the new customer's application data to the data base for processing. The centralized data base may perform a credit check on the new customer, may

keep track of available services, telephone numbers, network access data, and other information, and then assigns the MIN to the new customer's cellular telephone set. The MIN and other NAM parameters are transmitted by the centralized data base back to the service provider's workstation for manual entry by the employee into the cellular telephone set. This presents a cumbersome and costly procedure both to the customer as well as to the service provider".

As to dependent claim 13, "wherein distributing the plurality of wireless devices comprises selling the plurality of wireless devices" is taught in '249 col. 58-67.

As to independent claim 14, "A wireless device comprising: a processor; data storage; a wireless communication interface; and a user interface, wherein the data storage contains pre-activation provisioning data and initial postactivation provisioning data" is taught in '249 col. 3, lines 5-19;

"and wherein the initial post-activation provisioning data comprises an ESN that is unique to the wireless device" is shown in '249 col. 4, lines 61 through col. 5, line 36, note the each radio telephone contains a programmable memory which contain a unique identification number assigned by the cellular system; therefore it is interpreted that there is a second over-the-air phone activation process;

the following is not explicitly taught in '249: **"wherein the pre-activation provisioning data comprises a mobile identification number / electronic serial number (MIN/ESN) pair that is the same as a MIN/ESN pair stored as pre-activation provisioning data on at least one other wireless device"** however '132 teaches that the over-the air activation function ID number is the same for every mobile station in col. 3, lines 5-11.

It would have been obvious to one of ordinary skill in the art at the time of a method for remotely establishing a cellular service account for a cellular radiotelephone system taught in '249 to include a means to utilize the same ID number for activation. One of ordinary skill in the art would have been motivated to perform such a modification to simplify the activation process of mobile phones see '132 (col. 1, lines 58 et seq.).

As to dependent claim 17, “wherein the initial post-activation provisioning data is stored in a Number Assignment Module (NAM) block of the, data storage, and wherein the application logic is executable to determine that the NAM block does not contain a MIN and to responsively use the pre-activation MIN/ESN pair as a basis to request RF connectivity” however '132 teaches that the invention is able to distinguish if the MIN is a registered MIN or a dummy MIN in col. 4, lines 64-67.

As to independent claim 18, “A method comprising: storing concurrently in a wireless device both pre-activation provisioning data and post activation provisioning data, wherein the pre-activation provisioning” is taught in '249 col. 3, lines 5-19;

“and wherein the post-activation provisioning data comprises an ESN that is unique to the wireless device” is shown in '249 col. 4, lines 61 through col. 5, line 36, note the each radio telephone contains a programmable memory which contain a unique identification number assigned by the cellular system; therefore it is interpreted that there is a second over-the-air phone activation process;

the following is not explicitly taught in '249:

“data comprises a mobile identification number / electronic serial number (MIN/ESN) pair that is the same as a MIN/ESN pair stored as pre-activation provisioning

data on at least one other wireless device” however ‘132 teaches that the over-the air activation function ID number is the same for every mobile station in col. 3, lines 5-11; **“sending from the wireless device into a network a registration request carrying the common MIN/ESN pair, so as to acquire radio frequency (RF) connectivity”** however ‘132 teaches that the wireless network registration uses the common or dummy MIN to establish OTAF in col. 4, lines 7-21.

It would have been obvious to one of ordinary skill in the art at the time of a method for remotely establishing a cellular service account for a cellular radiotelephone system taught in ‘249 to include a means to utilize the same ID number for activation. One of ordinary skill in the art would have been motivated to perform such a modification to simplify the activation process of mobile phones see ‘132 (col. 1, lines 58 et seq.).

9. **Claims 4-7, 9-12, 15, 16, 19-21,** are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmid U.S. Patent No. 5,887,249 (hereinafter ‘249) in view of Chatterjee et al. US Patent No. 6,915,132 (hereinafter ‘132) in further view of Rosenberg et al. US Patent No. 6,628,934 (hereinafter ‘934).

As to dependent claim 4, the following is not taught in the combination of ‘249 and ‘132: **“further comprising: maintaining in a switch a set of logic that blocks a given wireless device from originating voice calls if the wireless device is operating under the given MIN and the given ESN but that allows the given wireless device to originate a packet data session if the given wireless device is operating under the given MIN and the given ESN”** however ‘934 teaches as part of the activation process a user can select which wireless services to activate for example voice only in col. 9, lines 9-21.

It would have been obvious to one of ordinary skill in the art at the time of a method for remotely establishing a cellular service account for a cellular radiotelephone system taught in '249 and '132 to include a means to route data to voice only or computer only based wireless systems. One of ordinary skill in the art would have been motivated to perform such a modification to make wireless activation process without requiring human interaction see '934 (col. 2, lines 66 et seq.) "At present, the activation process cannot be performed without requiring human interaction with a customer service representative or a time delay before the wireless services become activated on the wireless device. Users of the Ricochet network, for example, are required to wait 48 hours for a service plan to be activated on their wireless devices after selecting a service plan on a web site. Users dealing with customer service representatives quite often incur delays before their service plans are ready for use. In short, there are currently no provisions in place for wireless service providers to automatically activate wireless services for wireless device users without requiring human interaction or time delays in activating the services".

As to dependent claim 5, "further comprising: after granting radio network access to the first wireless device allowing the first wireless device to enter into a first packet-data session with a provisioning server wherein engaging in the first over-the-air activation process comprises the provisioning server engaging in the first over-the-air activation process with the first wireless device" however '934 teaches OTA provisioning via a web site in col. 3, lines 39-46;

"and after granting radio network access to the second wireless device, allowing the second wireless device to enter into a second packet-data session with the provisioning

server wherein engaging in the second over-the-air activation process comprises the provisioning server engaging in the second over-the-air activation process with the second wireless device” however ‘934 teaches the activation is performed on multiple wireless devices in col. 3, lines 30-33.

As to dependent claim 6, “wherein engaging in the first over-the-air activation process comprises (i) exchanging web communications between the provisioning server and the first wireless device to collect user data for the first subscriber account, and (ii) sending the first MIN from the provisioning server to the first wireless device for the first wireless device to record in data storage for later use; and wherein engaging in the second over-the-air activation process comprises (i) exchanging web communications between the provisioning server and the second wireless device to collect user data for the second subscriber account, and (ii) sending the second MIN from the provisioning server to the second wireless device for the first wireless device to record in data storage for later use” however ‘934 teaches exchanging billing information and receiving identification numbers in col. 4, lines 13-33.

As to dependent claim 7, “wherein the first wireless device is selected from the group consisting of a cell phone, a personal digital assistant and a wirelessly-equipped personal computer; and wherein the second wireless device is selected from the group consisting of a cell phone, a personal digital assistant and a wirelessly equipped personal computer” however ‘934 teaches the wireless devices can take many forms in col. 1, lines 32-36.

As to dependent claim 9, “further comprising: receiving into the network from the first wireless device a first mobile-IP registration request carrying the unique pre-activation provisioning data of the first wireless device, and granting packet-data connectivity to the first wireless device in response to at least the unique pre-activation provisioning data of the first wireless device” however ‘934 teaches OTA provisioning via a web site in col. 3, lines 39-46;

“receiving into the network from the second wireless device a second mobile-IP registration request carrying the unique pre-activation provisioning data of the second wireless device, and granting packet-data connectivity to the second wireless device in response to at least the unique pre-activation provisioning data of the second wireless device” however ‘934 teaches the activation is performed on multiple wireless devices in col. 3, lines 30-3;

“receiving into the network from the first wireless device a first packet-data communication, and sending the first packet-data communication to a provisioning server to trigger a provisioning session between the provisioning server and the first wireless device, in which the provisioning server collects billing information from the first wireless device and sends further post-activation provisioning data to the first wireless device; and receiving into the network from the second wireless device a second packet-data communication, and sending the second packet-data communication to a provisioning server to trigger a provisioning session between the provisioning server and the second wireless device, in which the provisioning server collects billing information from the second wireless device and sends further post-activation provisioning data to the second

wireless device” however ‘934 teaches exchanging billing information and receiving identification numbers in col. 4, lines 13-33.

As to dependent claim 10, “wherein the common pre-activation provisioning data includes (i) a common mobile identification number and (ii) a common electronic serial number; wherein the unique pre-activation provisioning data includes a unique username; and wherein the stored post-activation provisioning data on each device includes an electronic serial number that is different per wireless device” however ‘934 teaches exchanging billing information and receiving identification numbers in col. 4, lines 13-33.

As to dependent claim 11, “wherein the pre-activation provisioning data further includes a common authentication-key (A-key)” however ‘934 teaches an activation code is sent to the wireless device in col. 2, lines 60-63, note the activation code is interpreted equivalent to an ‘A-key’.

As to dependent claim 12, “wherein each of the first and second wireless devices is selected from the group consisting of a cell phone, a personal digital assistant and a wirelessly-equipped personal computer” however ‘934 teaches the wireless devices can take many forms in col. 1, lines 32-36.

As to dependent claim 15, “wherein the data storage further comprises application logic executable by the processor (i) to use the pre-activation MIN/ESN pair as a basis to request radio frequency (RF) connectivity from a wireless carrier, (ii) to engage in a data session with a provisioning server, (iii) to send billing information to the provisioning server, and (iv) to receive and store further post-activation provisioning data from the provisioning server, wherein the further post-activation provisioning data comprises a

MIN unique to the wireless device, whereby the post-activation ESN and post-activation MITT are usable in combination by the wireless device to thereafter gain RF connectivity” however ‘934 teaches exchanging billing information and receiving identification numbers in col. 4, lines 13-33.

As to dependent claim 16, “wherein the device is selected from the group consisting of a cell phone, a personal digital assistant and a wirelessly-equipped personal computer” however ‘934 teaches the wireless devices can take many forms in col. 1, lines 32-36.

As to dependent claim 19, “further comprising, after acquiring RF connectivity: sending from the wireless device into the network a data communication, and then receiving into the wireless device a request for billing information to set up a service account for the wireless device; sending the requested billing information from the wireless device into the network; and receiving from the network a post-activation MIN tied to the service account, and storing the post-activation MIN in the wireless device” however ‘934 teaches exchanging billing information and receiving identification numbers in col. 4, lines 13-33.

As to dependent claim 20, “further comprising, after storing the post-activation MIN: using the post-activation MIN and post-activation ESN as a basis to gain RF connectivity” however ‘934 teaches activation with a unique association with the wireless device in col. 9, lines 21-38.

As to independent claim 21, “A cellular telephone activation system comprising:” and “**to program the cellular telephone with a new MIN**” is taught in ‘249 col. 3, lines 5-19;

the following is not explicitly taught in '249: "**a radio network access system arranged to grant radio network access concurrently to multiple cellular telephones operating under a common mobile identification number (MIN) / electronic serial number (ESN) pair**" and "**with a cellular telephone operating under the common MIN/ESN pair**" however '132 teaches that the over-the air activation function ID number is the same for every mobile station in col. 3, lines 5-11;

It would have been obvious to one of ordinary skill in the art at the time of a method for remotely establishing a cellular service account for a cellular radiotelephone system taught in '249 to include a means to utilize the same ID number for activation. One of ordinary skill in the art would have been motivated to perform such a modification to simplify the activation process of mobile phones see '132 (col. 1, lines 58 et seq.) .

"and an over the air activation system arranged to engage in web communication" however '934 teaches OTA provisioning via a web site in col. 3, lines 39-46.

It would have been obvious to one of ordinary skill in the art at the time of a method for remotely establishing a cellular service account for a cellular radiotelephone system taught in '249 and '132 to include a means to route data to voice only or computer only based wireless systems. One of ordinary skill in the art would have been motivated to perform such a modification to make wireless activation process without requiring human interaction see '934 (col. 2, lines 66 et seq.) "At present, the activation process cannot be performed without requiring human interaction with a customer service representative or a time delay before the wireless services become activated on the wireless device. Users of the Ricochet network, for example, are required to wait 48 hours for a service plan to be activated on their wireless devices

after selecting a service plan on a web site. Users dealing with customer service representatives quite often incur delays before their service plans are ready for use. In short, there are currently no provisions in place for wireless service providers to automatically activate wireless services for wireless device users without requiring human interaction or time delays in activating the services”.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ellen C Tran whose telephone number is (571) 272-3842. The examiner can normally be reached from 6:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Kambiz Zand can be reached on (571) 272-3811. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ellen Tran
Patent Examiner
Technology Center 2134
16 February 2007